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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,412	10/08/2003	Seiin Kobayashi	5585	7425

7590 02/09/2005

Thomas L. Moses  
Legal Department, M-495  
PO Box 1926  
Spartanburg, SC 29304

EXAMINER

JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/681,412

Applicant(s)

KOBAYASHI, SEIIN

Examiner

Cheryl Juska

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/04</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0258870 issued to Oakey et al. in view of US 5,330,806 issued to Bythewood et al., D492,426 issued to Strickler, and D479,424 issued to Sellman, Jr.

Applicant claims an area rug comprising a plurality of interlocking tiles wherein the tiles forming an outer border have serged outer edges and the tiles having interior edges have undulations for interlocking with adjoining tiles. In another embodiment, the area rug is comprised of a plurality of small tiles (e.g., 18" x 18") and a plurality of large tiles (e.g., 18" x 36"). The tiles have a top layer of a pile fabric, a middle layer of cushion, and a bottom layer of adhesive. The pile fabric may be nylon, polypropylene, polyester, cotton, wool, acrylic, glass, or combinations thereof. The middle cushion layer may be sponge, foam rubber, jute, foam polyurethane, or combinations thereof. The pile layer and cushion layer are attached by adhesive or needling. The pile layer is colored by dye injection, graphic tufting, screen printing, pad dyeing, flocking, or combinations thereof.

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Oakey teaches a re-configurable modular floor covering comprising modular units (i.e., carpet tiles) that are easily assembled in a variety of designs by the consumer (abstract and sections [0008] and [0012]). The tiles are adhered to a floor by use of pressure sensitive adhesive strips or dots on the backside thereof or linked together by one-sided vinyl adhesive tape, hook-and-loop fasteners, magnets, etc. so as to resist movement (sections [0015] and [0016]). The floor covering may employ conventional free-lay carpet tiles (i.e., comprising at least a face pile layer and cushion layer) (section [0020]). Said tiles may include an edge treatment (e.g., beveled edge) for the tiles employed as border or perimeter tiles (section [0022]).

Thus, Oakey teaches the presently claimed invention with the exception (a) of serged border edges and (b) undulations for interlocking. With respect to the former, it is argued that serged edges would have been obvious alternative to the exemplary beveled edges of the Oakey invention. Specifically, Oakey teaches edge treatments for border tile edges in order to provide a finished look and to provide a taper down to the floor surface. Applicant is hereby given Official Notice that serged edges for area rugs are readily known in the art. [Note applicant's disclosure at page 2, line 19). As such, it would have been obvious to one skilled in the art to substitute a serged border edge for the beveled edge of Oakey since both treatments are recognized in the art as equivalent methods of forming finished rug or carpet edges.

With respect to the latter exception, it would have been obvious to one skilled in the art to employ undulation to aid in the interlocking of carpet tiles. Specifically, said undulations are readily known in the art as evidenced by Bythewood, Strickler, and Sellman (see Figures of each reference). Thus, it would have been obvious to one skilled in the art to modify the Oakey

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invention with tile edges having undulations in order to interlock the tiles thereby preventing lateral movement thereof. Therefore, claims 1 and 2 are rejected.

With respect to claims 8 and 9, the cited Strickler reference teaches an area rug comprising both large and small tiles. Hence, it would have been obvious to one skilled in the art to change the shape and size of the Oakey tiles in a manner suggested by Strickler in order to provide an aesthetically pleasing area rug having a variety of design options. Therefore, claims 8 and 9 are also rejected.

With respect to claim 3-6 and 10-13, applicant is hereby given Official Notice that these features are known in the art of carpets. Specifically, commercial carpet faces are conventionally made of nylon, polypropylene, polyester, wool, cotton, and/or acrylic fibers. Additionally, well known secondary backings for carpets include foam backings such as polyurethane and woven jute backings. Furthermore, it is well known in the art to attach a top layer of pile fabric (e.g., tufted primary backing or needlepunched nonwoven pile fabric) to the cushion layer by means of adhesive or needling. Therefore, it would have been readily obvious to one skilled in the art to select these features when choosing a carpet tile for the Oakey invention since said features are common in the art of carpets and thus encompass Oakey's teaching of conventional free-lay carpet tiles. Hence, claims 3-6 and 10-13 are also rejected.

With respect to claims 7 and 14, it is argued that the methods of coloring are only given weight to the extent that said method produces a structural difference in the final product. Applicant is hereby given Official Notice that carpets and rugs are inherently colored in some manner to provide an aesthetically pleasing product for commercial sale. Typical methods of color include tufting colored yarns in a graphic pattern and printing of the tufted yarns. As such,

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claims 7 and 14 are rejected as being obvious over the cited prior art since it would have been readily obvious to one skilled in the art to color the area rug of Oakey by known means in order to provide the variety of designs desired.

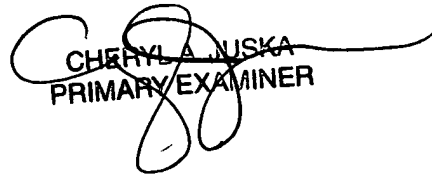
With respect to claims 15 and 16, it is noted that the cited art does not explicitly teach the claimed tile dimensions. However, it is argued that it would have been obvious to select the claimed dimensions, since such a modification would have involved a mere change in the size and/or shape of the tiles. A change in size or shape is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 and *In re Dailey*, 149 USPQ 47. Therefore, claims 15 and 16 are rejected as being obvious over the prior art.

### ***Conclusion***

3. The art made of record and not relied upon is considered pertinent to applicant's disclosure.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CHERYL A. NUSKA  
PRIMARY EXAMINER

cj  
February 7, 2005